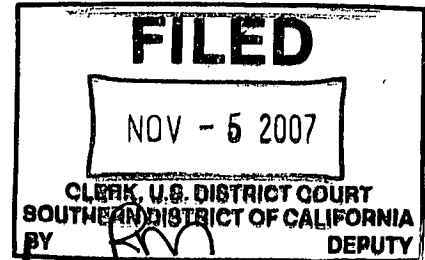


UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK

2500 Tulare Street  
Fresno, CA 93721



Clerk, Southern District of California  
880 Front Street  
San Diego, CA 92101

'07CV 2131 W

BLM

RE: ANTHONY A ARCEO vs. ROBERT AYERS  
USDC No.: 1:07-CV-01548-OWW-GSA

2254	✓	1983
FILING FEE PAID		
Yes		No ✓
HFP MOTION FILED		
Yes		No ✓
COPIES SENT TO		
Court	✓	ProSe

Dear Clerk,

Pursuant to the order transferring the above captioned case to your court, dated November 02, 2007, transmitted herewith are the following documents.

**Electronic Documents: 1 to 7.**

Documents maintained electronically by the district court are accessible through PACER for the Eastern District of California at <https://ecf.caed.uscourts.gov>.

Please acknowledge receipt on the extra copy of this letter and return to the Clerk's Office.

Very truly yours,

November 2, 2007

/s/ E. Flores

Deputy Clerk

RECEIVED BY:

\_\_\_\_\_  
Please Print Name

DATE RECEIVED:

NEW CASE  
NUMBER:

\_\_\_\_\_  
\_\_\_\_\_

1  
2  
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8  
9 UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA  
11

12 ANTHONY ARCEO,

1:07-CV-01548 OWW GSA HC

13 Petitioner,

14 vs.

ORDER OF TRANSFER

15 ROBERT AYERS, Warden,

16 Respondent.  
17 \_\_\_\_\_/

18 Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus  
19 pursuant to 28 U.S.C. § 2254.

20 The federal venue statute requires that a civil action, other than one based on diversity  
21 jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants  
22 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions  
23 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is  
24 situated, or (3) a judicial district in which any defendant may be found, if there is no district in which  
25 the action may otherwise be brought." 28 U.S.C. § 1391(b).

26 In this case, Petitioner is challenging the loss of times credits. Specifically, he complains "the  
27 California Department of Corrections and his [sic] wardens continue to take 91-120 days for a 30 day  
28 violation." Where "the petition is directed to the manner in which a sentence is being executed, e.g., if

1 it involves parole or time credits claims, the district of confinement is the preferable forum." Meador  
2 v. Cal. Dept. of Corr., 2003 WL 21910917 \*1 (N.D.Cal.), *citing* Dunne v. Henman, 875 F.2d 244, 249  
3 (9th Cir.1989); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 497 (1973); In re Phelon, 2002 WL  
4 31618536, \*1 (N.D. Cal.); Thomas v. Hepburn, 2001 WL 505916, \*1 (N.D.Cal.); McKnight v. Forman,  
5 1997 WL 50267, \*1 (N.D. Cal.). Petitioner is incarcerated at the R.J. Donovan Correctional Facility in  
6 San Diego, California, which is within the jurisdictional boundaries of the Southern District of  
7 California. See 28 U.S.C. § 84(b). Therefore, in the interest of justice the petition will be transferred to  
8 the United States District Court for the Southern District of California. 28 U.S.C. §§ 1404(a) and  
9 2241(d).

10 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States  
11 District Court for the Southern District of California.

12 IT IS SO ORDERED.

13 Dated: November 1, 2007

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE

CLOSED, HABEAS

**U.S. District Court  
Eastern District of California - Live System (Fresno)  
CIVIL DOCKET FOR CASE #: 1:07-cv-01548-OWW-GSA**

(HC) Arceo v. Ayers et al  
Assigned to: Judge Oliver W. Wanger  
Referred to: Magistrate Judge Gary S. Austin  
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 09/14/2007  
Date Terminated: 11/02/2007  
Jury Demand: None  
Nature of Suit: 530 Habeas Corpus  
(General)  
Jurisdiction: Federal Question

**Petitioner**

**Anthony A Arceo**

represented by **Anthony A Arceo**

J-17830  
RJ Donovan Correctional Facility  
P O Box 7990003  
San Diego, CA 92179  
PRO SE

V.

**Respondent**

**Robert Ayers**  
*Warden*

**Respondent**

**Attorney General of the State of  
California**

Date Filed	#	Docket Text
09/14/2007	<u>1</u>	PETITION for WRIT of HABEAS CORPUS by Anthony A Arceo.(Benson, A) (Entered: 09/17/2007)
09/17/2007	<u>2</u>	PRISONER NEW CASE DOCUMENTS ISSUED; (Attachments: # <u>1</u> Consent Forms) (Benson, A) (Entered: 09/17/2007)
09/17/2007		SERVICE BY MAIL: <u>2</u> Prisoner New Case Documents for FCD served on Anthony A Arceo. (Benson, A) (Entered: 09/17/2007)
09/26/2007	<u>3</u>	CONSENT to JURISDICTION by US MAGISTRATE JUDGE by Anthony A Arceo. (Duong, D) (Entered: 09/27/2007)

10/23/2007	<u>4</u>	ORDER INTRADISTRICT TRANSFER to Fresno (1:07-cv-1548 OWW GSA) signed by Judge Gregory G. Hollows on 10/23/07. (Kaminski, H) (Entered: 10/23/2007)
10/23/2007		SERVICE BY MAIL: <u>4</u> Order, Case Transferred Out - Divisional served on Anthony A Arceo. (Kaminski, H) (Entered: 10/23/2007)
10/23/2007	<u>6</u>	PRISONER NEW CASE DOCUMENTS ISSUED; (Attachments: # <u>1</u> Consent Forms) (Kaminski, H) (Entered: 10/23/2007)
10/23/2007		SERVICE BY MAIL: <u>6</u> Prisoner New Case Documents for OWW, <u>4</u> Order, Case Transferred Out - Divisional served on Anthony A Arceo. (Kaminski, H) (Entered: 10/23/2007)
11/02/2007	<u>7</u>	ORDER, CASE TRANSFERRED to District of CA/Southern signed by Judge Gary S. Austin on 11/01/2007. CASE CLOSED. (Flores, E) (Entered: 11/02/2007)
11/02/2007	<u>8</u>	TRANSMITTAL of DOCUMENTS on *11/2/2007* to * Clerk, Southern District of California* *880 Front Street* *San Diego, CA 92101*. ** *Electronic Documents: 1 to 7. *. (Flores, E) (Entered: 11/02/2007)
11/02/2007		SERVICE BY MAIL: <u>7</u> Order, Case Transferred Out to Another District served on Anthony A Arceo. (Flores, E) (Entered: 11/02/2007)
11/05/2007	<u>9</u>	CONSENT to JURISDICTION by US MAGISTRATE JUDGE by Anthony A Arceo. (Verduzco, M) (Entered: 11/05/2007)
11/05/2007	<u>10</u>	NOTICE of CHANGE of ADDRESS (PO Box 799003, San Diego, CA 92179) by Anthony A Arceo. (Verduzco, M) (Entered: 11/06/2007)

PACER Service Center			
Transaction Receipt			
11/06/2007 15:41:45			
PACER Login:	ud0077	Client Code:	
Description:	Docket Report	Search Criteria:	1:07-cv-01548-OWW-GSA
Billable Pages:	1	Cost:	0.08

AD 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

<b>United States District Court</b>		District <b>EASTERN</b>
Name <b>ANTHONY ARCEO</b>	Prisoner No. <b>J 17830</b>	Case No.
Place of Confinement <b>RJ DONOVAN CORR. FACILITY, PO BOX 799003, SAN DIEGO, CALIFORNIA 92179</b>		
Name of Petitioner (include name under which convicted) <b>ANTHONY ARCEO</b>		Name of Respondent (authorized person having custody of petitioner) <b>V. ROBERT AYERS, WARDEN</b>
The Attorney General of the State of: <b>CALIFORNIA</b>		
<b>PETITION</b>		
1. Name and location of court which entered the judgment of conviction under attack <b>SUPERIOR COURT</b>		<b>SAN JOAQUIN COUNTY</b>
2. Date of judgment of conviction <b>FEBRUARY 4, 1994</b>		
3. Length of sentence <b>THIRTY ONE YEARS</b>		
4. Nature of offense involved (all counts) <b>PENAL CODE 207, 261, 667.5</b>		
<div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">FILED</div> <div>SEP 14 2007</div>		
5. What was your plea? (Check one)		<div style="text-align: center;"> <b>CLERK, U.S. DISTRICT COURT</b>  <b>EASTERN DISTRICT OF CALIFORNIA</b>              BY  <b>DEPUTY CLERK</b> </div>
(a) Not guilty <input checked="" type="checkbox"/> <b>XX</b> (b) Guilty <input type="checkbox"/> (c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: <div style="text-align: center; padding: 10px;"><b>N/A</b></div>		
6. If you pleaded not guilty, what kind of trial did you have? (Check one)		
(a) Jury <input checked="" type="checkbox"/> <b>XX</b> (b) Judge only <input type="checkbox"/>		
7. Did you testify at the trial?		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <b>XX</b>		
8. Did you appeal from the judgment of conviction?		
Yes <input checked="" type="checkbox"/> <b>XX</b> No <input type="checkbox"/>		

AO 241 (Rev. 5/85)

## 9. If you did appeal, answer the following:

(a) Name of court **COURT OF APPEALS 3D DIST.**(b) Result **AFFIRMED**(c) Date of result and citation, if known **DIR. C018338 / HC C028423**(d) Grounds raised **DIR= COMPETENCY SENTENCE****HC 46=ISSUES**

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court **SUPREME COURT OF CALIFORNIA**(2) Result **AFFIRMED**(3) Date of result and citation, if known **DIR. S068291 / HC S075020**(4) Grounds raised **DIR. COMPETENCY, SENTENCE****HC 46=ISSUES**

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court **UNITED STATES SUPREME COURT**(2) Result **AFFIRMED**(3) Date of result and citation, if known **05 8112**(4) Grounds raised **46 ISSUES**

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ~~XX~~ No

11. If your answer to 10 was "yes," give the following

information:  
(a) (1) Name of court **9TH CIRCUIT COURT OF APPEALS**(2) Nature of proceeding **HABEAS CORPUS (02 15925)**(3) Grounds raised **46 ISSUES**

AO 241 (Rev. 5/85)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒(5) Result **AFFIRMED**(6) Date of result **2/19/03**

(b) As to any second petition, application or motion give the same information:

(1) Name of court **USDC EASTERN** **S99 1024 PCD DAD P**(2) Nature of proceeding **HABEAS CORPUS**(3) Grounds raised **46 ISSUES**

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒(5) Result **AFFIRMED**(6) Date of result **3/15/02**

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐(2) Second petition, Yes ☒ No ☐(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:**N/A**12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.**CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.**



AO 241 (Rev. 5/85)

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: PETITIONER IS ENTITLED TO MANDATORY 30 DAY CREDIT LOSS PER  
PENAL CODE 2932, in re DIKES 18 CAL R TR 9 (CAL APP 1 DIST 2004) AND

Supporting FACTS (state briefly without citing cases or law) \_\_\_\_\_

Petitioner was sentenced to prison for owing provisions of Penal  
Code Sections 1170, and subject to good time work credits. Subject  
to provisions of law, petitioner has been "found in violation of  
prison regulations." Penal Code 1170 and 2931 et seq. The term  
of confinement is adjusted by mandates enumerated in PC 2932, which

B. Ground two: THE COURT HAS A DUTY AND OBLIGATION TO REMEDY ANY BAR OF  
TIME CREDIT PROVISIONS OF PENAL CODE 2931, 2932, AND 2933 AS APPLIED TO

Supporting FACTS (state briefly without citing cases or law): \_\_\_\_\_

California courts have previously not allowed statutory exclusions  
to bar equal protection principles as to discriminatory application  
of good and/ or work time credits to prisoners. People V Tobia  
(1979) 98 cal app 3d 157, is pre sage case (People V Sage (1980) 26  
C3d 498) in which the court held that while PC section 4019"...on its

AD 241 (Rev. 5/85)

C. Ground three: N/ASupporting FACTS (state *briefly* without citing cases or law):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_D. Ground four: N/ASupporting FACTS (state *briefly* without citing cases or law):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

N/A  
\_\_\_\_\_  
\_\_\_\_\_

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?  
Yes \_\_\_\_\_ No xx

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing RALPH CINGCON  
\_\_\_\_\_(b) At arraignment and plea DAVID ADAMS, PUBLIC DEFENDER  
\_\_\_\_\_

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(c) At trial DAVID ADAMS(d) At sentencing DAVID ADAMS / MICHAEL BIGELOW(e) On appeal DAVID MORSE PUBLIC DEFENDER(f) In any post-conviction proceeding PRO PER / PRO SE LITIGANT(g) On appeal from any adverse ruling in a post-conviction proceeding PRO PER / PRO SE LITIGANT

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

N/A

(b) Give date and length of the above sentence: \_\_\_\_\_

N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

N/A  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed

Sept 9, 2007  
(date)Anthony Adams  
Signature of Petitioner

STATEMENT OF THE CASE

On May 23, 2007 petitioner filed in the USDC Southern Dist.

On July 31, 2007 the court issued its order (see exhibit K ) in which it describes conditions which petitioner should pursue his claim. Petitioner filed in the USDC Central (where he became aware of error) the writ was transferred. Prison staff does not give trust account print out but by court order. On 8/10/07 the librarian forwarded form to trust office.

Petitioner has not changed the caption to either of his two contentions, nor his supporting facts. On January 3, 2007 two grounds were raised in Kern Co. 00965/A. On February 22, 2007 two grounds were raised in court of appeal F0 52216. On April 7, 2007 the two claims were formed into questions. Its my understanding you can not change a allegation once you file it. Petitioner is raising a custody credit claim from 1997, and the venue should be in the Eastern District.

On August 30, 2007 during mail re-route my "Order of Transfer" by the Eastern District Court arrived with no envelope, taped together, and two months late.

I notified the Southern District Court of my intent to file in the Eastern District.

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76TS76T-

1 ANTHONY ARCEO, J-17830  
 2 RJ DONOVAN CORR. FACILITY  
 3 PO BOX 799003, F3B11-143  
 4 SAN DIEGO, CA. 92179

5 IN THE UNITED STATES DISTRICT COURT  
 6 IN AND FOR THE EASTERN DISTRICT

7  
 8 ANTHONY ARCEO,  
 9 petitioner,

10 v

11 WARDEN: WONG, A. et al,  
 12 respondent,

13 CASE \_\_\_\_\_

14 Writ of Habeas Corpus

15  
 16 TO THE HONORABLE JURIST IN THE ABOVE ENTITLED COURT, And

17 1.  
 18 INTRODUCTION

19 Comes now Anthony Arceo, petitioner in who's behalf the writ  
 20 is applied for, who is confined from liberty at RJ Donovan State  
 21 Prison in the custody of Warden Hernandez, after a non-adverse  
 22 transfer from lancaster state prison. As a result of judgement from  
 23 superior court of San Joaquin County on or about the 4th day of  
 24 April 1994 in action # SC055592A sentencing petitioner to a term of  
 imprisonment of thirty-one years in state prison.

25 Petitioner's confinement and restraint of liberty is illegal  
 26 as set forth in and supported by the attached statement of facts,  
 27 the declaration of petitioner, the points and authorities, all  
 28 records, files, transcripts of the cause and any other evidence



1 presented whether oral or documentary.

2

3

11.  
statement of the case

4

5 Plaintiff agrees with the opinion of Kern County Superior  
6 Court for the purpose of this appeal. California Department of  
7 Corrections and his wardens continue to take 91 - 120 days for a 30  
8 day violation. 15 CCR §§ 3043.3 loss of credits (see § 3016 wine,  
9 § 3323(e) "C-offense" 91 - 121 credit loss). Each warden has  
10 continued the policy of taking 120 days for a 30 day violation.  
11 Plaintiff found out by chance that the warden should of corrected  
12 this injustice through in re DIKES 18 Cal Rptr 3d 9 (Cal App Dist  
13 2004). Its plaintiffs belief that he is entitled to a mandatory 30  
14 day credit loss per Penal Code §§ 2932, antoration of those credits  
15 per Penal Code § 2931. In 1996 plaintiff became aware of the  
16 inaccuracies. Plaintiff at no time prior had no reason not to trust  
17 the Department of Corrections or its wardens. Plaintiff first filed  
18 in Los Angeles because that was where he became aware of the wrong.

19 On August 31, 2006, habeas filed in Superior Court of Los  
20 Angeles, see # BH 004214, exhibit E.

21 On November 1, 2006, habeas filed in Court of Appeals, 2d  
22 Appellate District, see # BI 93763, exhibit D.

23 On January 3, 2007, habeas filed in Superior Court Kern County,  
24 see # HC 009651A, exhibit C.

25 On February 22, 2007, habeas filed in Court of Appeal, 5th  
26 Appellate District, see # FO 52216, exhibit B.

27 On April 7, 2007, habeas filed in California Supreme Court for  
28 state of california. see # \_\_\_\_\_, exhibit A.

76T876T-

1 Plaintiff and those similarly situated should not be  
2 penalized by the state and its agents for not carrying out the law  
3 accordingly.  
4  
5  
6  
7  
8  
9  
10  
11

12 111.

13 GROUND ONE

14 continued

15 RESTORATION OF THOSE DAYS PER PENAL CODE §§ 2931 AND OR 2933. THUS  
16 VIOLATING PETITIONERS DUE PROCESS AND THE STATE AND FEDERAL  
17 CONSTITUTION.  
18

19 SUPPORTING FACTS  
20

21 states no more than thirty days can be taken. see  
22 in re DIKES 18 Cal Rptr 3d 9 (Cal App 1 Dist 2004), therefore it  
23 is uncontrovertible while petitioner is in violation of Directors'  
24 Rule § 3016 and while petitioner is confined in the custody of the  
25 Department of Corrections longer. As a result of excess amount of  
26 time taken and the refusal to restore those credits, "CDC" violates  
27 P.C. sec. et seq., as a prisoner confined in the custody of the  
28

1 Department of Corrections pursuant to P.C. § 1170. Petitioner has  
2 entitlement rights to time credit provisions of Penal Sections 2931  
3 and/or 2933. These Legislative adopted statutes provide for  
4 reduction in the term of imprisonment of persons sentenced to prison  
5 under provisions of Penal Code 1170 and who engage in specific forms  
6 of conduct while in the custody of the Department of Corrections.

7 "(b) Total possible good behavior and participation credits  
8 shall result in a four month reduction for each eight months  
9 served in prison or in a reduction based on this ratio for any  
10 lesser period of time. Three months of this four month reduc-  
11 tion. Or a reduction based on this ratio for any lesser period,  
12 shall be based upon forbearance from any act for which the  
13 prisoner could be prosecuted in a court of law, either as a  
14 misdemeanor or a felony, or any act of misconduct described as  
15 a serious disciplinary infraction by the Department of  
16 Corrections.

17 (c) One month of this four month reduction, or a reduction  
18 based on this ratio for a lesser period, shall be based solely  
19 upon participation in work, education, vocational, therapeutic,  
20 or other prison activities. Failure to succeed after demon-  
21 strating a reasonable effort in the specified activity shall  
22 not result in loss of participation credit. Failure to partici-  
23 pate in the specified activities can result in a maximum loss  
24 of credit of 30 days for each failure to participate. However,  
25 those confined for other than behavior problems shall be given  
26 specified activities commensurate with custodial status.

1. (d) This action shall not apply to any person whose crime was  
2. committed on or after January 1, 1983." (Emphasis added) Penal  
3. Code Section 2931.

4. "(a) It is the intent of the legislature that persons convicted  
5. of crime and sentenced to state prison, under Section 1170,  
6. serve the entire sentence imposed by the court except for a  
7. reduction in the time served in the custody of the Director of  
8. Corrections. Worktime credits shall apply for performance in  
9. work assignments and performance in elementary, high school, or  
10. vocational programs...For every six months of full time  
11. performance in credit qualifying program. as designated by the  
12. director, a prisoner shall be awarded credits from his term of  
13. confinement of six months...Every prisoner who refuses to accept  
14. a full time credit qualifying assignment or who is denied the  
15. opportunity to earn worktime credits pursuant to subdivision (a)  
16. of 2932 shall be awarded no worktime credit reduction...Except  
17. as provided in subdivision (a) of Section 2932, every prisoner  
18. willing to participate in a full time credit qualifying assign-  
19. ment but who is either not assigned to a full time assignment  
20. or is assigned to a program of less than full time, shall  
21. receive no less credit than is provided under Section 2931."  
22.

23.  
24. Further, Penal Code Section 2933(b) provides:

25. "...Except as provided in subdivision (a) of 2932, every  
26. prisoner shall have a reasonable opportunity to participate  
27. in a full time credit qualifying assignment in a manner consistan  
28. with institutional security and available resources." (Emphasis

Added)

Therefore, subject to exclusions enumerated by Penal Code Section 2932, (under the influence, possession of, or manufactured alcohol offenses pur DR § 3016, et al, are absent) All persons sentenced to state prison under provisions of Penal Code Section 1170 have entitlement rights to the time credit earnings provided by Penal Code Sections 2931 and/or 2933 and the subsequent reduction in their prison term. Petitioner is no exception. Good time credits can only be restored by state courts through state procedures or by federal courts via writ of habeas corpus after exhaustion of state judicial remedies. Priester v Rodriguez 411 US 475, 93 Sct 1827(1973). A timely appeal has been filed. The loss of good time credits creates a liberty interest Hewitt v Helms 459 US 466-70. In the case at bar 1) taking credits for rule violations in excess of state mandate PC § 2932. 2) Being it was a 120 days it cannot be restored versus the rule a 30 day infraction can be restored in full. 3) Under the influence of, possession of, or manufactured alcohol offenses DR § 3016, is not enumerated in Penal Code § 2932 nor is it custom or habit to prosecute these cases. Thus the 120 days taken were in excess of the 30 days allowed by law. Under Penal Code Sections 2931 and/or 2933 respondent is in violation of the legislative purpose and intent of Penal Code Section 1170 et seq. and other provisions of state law including, but not limited to Penal Code Sections 2931, 2932, 2933, 3000 et. seq., in re Dikes 18 cal rptr 3d 9 (cal app 1 dist 2004). While the statutory authority is dispositive of the issues in favor of petitioner, it has long established policy of this state to construe a penal statute as favorably to the defendant as its language and the circumstances of its application may permit;

1 just as in the case of a question of fact, the defendant is  
2 entitled to the benefit of every reasonable doubt as to the true  
3 interpretation of words or the construction of language used in a  
4 statute. Wash V Department of Alcoholic Bev. Control (1963) 59 C2d  
5 757, 764-765, 382 P2d 337; Keeler V Superior Court (1970) 2 C3d 619,  
6 631, 470 P2d 617.

7  
8 GROUND TWO

9 continued

10  
11 CAREER CRIMINALS, THUS VIOLATING PETITIONERS DUE PROCESS AND THE  
12 STATE AND FEDERAL CONSTITUTIONS.

13  
14 SUPPORTING FACTS

15  
16 face...does not apply to presentence custody of persons convicted  
17 of a felony and sentenced to state prison.." constitution equal  
18 protection of law principles require that defendant be given credit  
19 for good/work time. If any, pursuant to penal code section § 4019.  
20 People V Tobia, supra at 272; People V Black (1979) 93 Cal App 3d  
21 846); People V Sanders (1979) 98 Cal App 3d 273; People V Castro  
22 (1979) 99 Cal App 3d 191. Loss of equal protection as treating  
23 inmates differently based on their criminal or disciplinary history  
24 is error. Conlogue V Shenbaum 949 F2d 378, 380 (11 cir 1991).

25 The specific and general treatment of career criminals  
26 establishes a suspect classification violating equal protection and  
27 the due process of our state and federal constitutions. Petitioner  
28 is handicapped, poor and has priors. Where judicial review is

767576T-

1 possible for the persistent who have knowledge, financial ability,  
2 and wherewithal to exhaust administrative remedies. in re Muszaiski  
3 (1975) 52 Cal App 3d 500, such review would be meaningless after  
4 months and years of further incarceration disabilities. Petitioner  
5 is required to work while incarcerated as are all other prisoners  
6 within the Department of Corrections as the result of department  
7 rules and regulations. Classification manual, Article 1, Section  
8 104; Title 15, California Administration Code, section 3040, et seq.  
9 Petitioner is denied restoration of credits (clean time and the  
10 mandatory 30 day rule violation) Petitioners counterparts that  
11 perform the same work function recieve reduction for the prison time  
12 of two days for each day of worked performed. Penal Code Section  
13 2931 and 2933. Petitioner must literally serve four times the same  
14 time in prison as others receiving half time. There is no compelling  
15 interest which justifies the suspect classification imposed upon  
16 petitioner, ie. depriving petitioner benefits of Penal Code Sections  
17 2931 and/or 2933 and requiring him to serve four times the length  
18 of incarceration as others similarly situated criminals by not  
19 adhering to Penal Code § 2932 (cf. in re Dikes 18 Cal Rptr 9 (Cal  
20 App 1 Dist 2004).

21 It would seem obvious that the public interest would be best  
22 served by lawfull, reasonable and equal treatment of prisoners.  
23 Further, that the disparate treatment petitioner faces runs contrary  
24 to the goals of Penal Code Section 3000, et seq. in that nothing  
25 good could ever be expected to come from such blatant, arbitrary,  
26 capricious, and unequal treatment as that suffered by petitioner,  
27 ie. excess punishment not allowed by law. It also can be demonstra-  
28 ted that current disparate treatment of petitioner as member of such

76T576T-

1 a suspect classification of state prisoners will encourage greater  
2 respect for law and authority, will reinforce positive personal  
3 attitudes and values, and will assist the "successful  
4 reintegration of the offender into society and to positive  
5 citizenship" Penal Code § 3000, hardly.

6 Petitioner is a state prisoner having been sentenced pursuant  
7 to Penal Code Section § 1170, Petitioner is in prison as a career  
8 repeat offender as many others for their recognition of conduct,  
9 be it bad or the worst petitioner is no exception.

10  
11 IV.

12 conclusion

13 Petitioner is confined in a state prison. Its the state and  
14 department of corrections responsibility to enforce the law and not  
15 apply it arbitrarily or otherwise unjustly. Petitioner is currently  
16 denied credit loss of only 30 days, the restoration of those credits  
17 and the alignment/adjustment of current outdate, which is afforded  
18 to other prisoners, reduce the length of imprisonment based upon  
19 statutory entitlement, legislative intent, evolving judicial  
20 standard, and/or state and federal constitutional principles under-  
21 lying the equal protection and due process of law. Petitioner has  
22 a legal right to have this disparity corrected. The petition should  
23 issue.

24 As follows;

- 25 1. Declare petitioners rights.  
26 2. Order respondent to adjust petitioners' release date in  
27 accordance with provisions of Penal Code Sections 2931, 2932,  
28 and 2933.




76TS79T-

1 3. Appoint legal counsel to assist in the litigation of the issues  
2 presented in this petition.

3 4. Order such other and further relief as is just and proper.

4  
5 Date Sept 9 2007.

6  
7 

8 Anthony Arceo J-17830  
9 in pro per

10 VERIFICATION

11 I'm the petitioner in the above cause of action, I read the  
12 statements contained herein, and declare under the penalty of  
13 perjury that upon information and belief these statements are true  
14 and correct.

15  
16 Date Sept 9 2007. At San Diego, Ca.

17 pursuant to California Code of Civil Procedure §§ 446 and 2015.5

18  
19  
20 

21 Anthony Arceo J-17830  
22 in pro per  
23  
24  
25  
26  
27  
28

DECLARATION OF ANTHONY ARCEO,

I Anthony Arceo, hereby declare;

1. That I am the petitioner in the above cause of action,
2. That I am incarcerated within the Department of Corrections at Donovan state prison as a result of action from San Joaquin County in case number SC055592A,
3. That I attached, calif supreme court response and letter to court clerk, 3 pages in section A
4. That I attached, appeals court response, 1 page, sec B
5. That I attached, Kern co. superior court, 3 pages sec. C.
6. That I attached, 2d app court response, 1 page, sec. D.
7. That I attached, LA superior court, 1 page, sec. E.
8. That I attached, appeal request and response, 2 pages, sec.F
9. That I attached appeal request and response, 2 pages, sec.G
10. That I attached, appeal request and response, 2 pages, sec.H
11. That I attached, appeal request and response, sec. I
12. That I attached, appeal request and response, 602 2 pages and rule violation reports, 3 pages, sec. J
13. That I have worked as a member of the prison work force since 1996.
14. That I am entitled to restoration pursuant to Penal code §§ 2931, 2932, 2933.
15. That I am unable to receive any restoration because its a "C" offence, 91 - 120 days.
16. That there is no compelling state interest served by depriving me of time credits per PC 2931, 2932, 2933.
17. That I am serving (4) times a greater proportionate of time.
18. That PC §§ 2931, 2933 allows restoration of credits not enumerated in penal code 2932. Which requires a thirty (30) day loss and as such is recoverable in full.

I am the petitioner in the above entitled action, I have read all the above statements herein, and declare under the penalty of perjury that upon information and belief these statements are true and correct.

Dated at Donovan Sept 9, 2007.

Anthony Arceo  
Anthony Arceo J-17830

**PROOF OF SERVICE BY MAIL**

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF SAN DIEGO )

[C.C.P. §§ 446, 2015.5; 28 U.S.C. §1746]

I, ANTHONY ARCEO, am a resident of the State of California and am over the age of eighteen years and am not a party to the above-entitled action. My address is listed below.

On Sept 9, 2007, I served the following documents:

**WRIT OF HABEAS CORPUS**

by placing a true copy thereof enclosed in a sealed envelope with First Class postage thereon fully prepaid in the United States Mail by delivering to prison officials for processing through the Institution's internal legal mail system at San Diego California, addressed as follows::

~~USDC~~  
~~25 TULARE ST. #2501~~  
~~FRESNO, CA. 93721~~

~~USDC EASTERN~~

501 I STREET Rm 4-400  
SACRAMENTO, CA. 95814

AG-OFFICE  
PO BOX 944255  
SACRAMENTO, CA  
94244

WARDEN  
RJ DONOVAN CORR. FAC.  
PO BOX 799003  
SAN DIEGO, CA. 92179

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed in the County of San Diego, California on Sept 9, 2007

*Anthony Arceo*

ANTHONY ARCEO J-17830

PO BOX 799003 F3B11-143

P.O. Box \_\_\_\_\_

San Diego, CA 92179-900\_\_

Pursuant to the holding of the United States Supreme Court in Houston v. Lack 108 S. Ct. 2379, 487 U.S. 266, 101 L.Ed.2d 245 (1988) and FRAP, Rule 4 (c) inmate legal documents are deemed filed on the date they are delivered to prison staff for processing and mailing via the Institution's internal legal mail procedures.

**ATTACHMENT**



MARY JAMESON  
AUTOMATIC APPEALS SUPERVISOR  
JORGE NAVARRETE  
SUPERVISING DEPUTY CLERK  
SAN FRANCISCO

NATALIE ROBINSON  
SUPERVISING DEPUTY CLERK  
LOS ANGELES



**Supreme Court of California**

FREDERICK K. OHLRICH  
COURT ADMINISTRATOR AND  
CLERK OF THE SUPREME COURT

April 10, 2007

☐ SAN FRANCISCO 94102  
EARL WARREN BUILDING  
350 McALLISTER STREET  
(415) 865-7000  
  
☐ LOS ANGELES 90013  
RONALD REAGAN BUILDING  
800 SOUTH SPRING STREET  
(213) 830-7570

Anthony Arceo, CDC# J-17830  
RJ Donovan Correctional Facility  
P.O. Box 799003  
San Diego, Ca 92179

Re: F052216 - Arceo (Anthony) on H.C.

Dear Mr. Arceo:

We hereby return unfiled your petition for review, which we received April 9, 2007. A check of the Court of Appeal docket shows that the judgment was affirmed February 22, 2007. This court lost jurisdiction to act on any petition for review March 24, 2007. (See Cal. Rules of Court, rule 8.500(e).) Without this jurisdiction, this court is unable to consider your request for legal relief.

Very truly yours,

FREDERICK K. OHLRICH  
Court Administrator and  
Clerk of the Supreme Court

A handwritten signature in cursive script, appearing to read "Joseph Cornetta".

By: Joseph Cornetta, Deputy Clerk

Enclosure

A

APRIL 3, 2007.

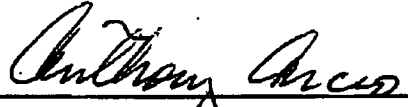
to: DEAR COURT CLERK  
fr: ANTHONY ARCEO, J-17830  
re: FILING PETITION FOR REVIEW,

AI

Declaration of Anthony Arceo,

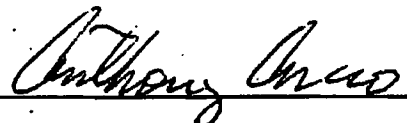
- 1) Declarant Anthony Arceo is a prisoner at RJ Donovan, prison III-Yard.
- 2) Declarant does not have a functioning law library he can go to and study daily.
- 3) Declarant is a sensitive needs inmate.
- 4) Declarant is on a sensitive needs yard (III-Yard), housing protective custody inmates, and per the state of california's governor all Lancaster "SNY" inmates were transfered to RJ Donovan from November 2006 through February 2007.
- 5) Declarant states that RJ Donovan's central library is for the General Population "GP" inmates.
  - a) "SNY" inmates turn in request one week and get copies of books back the following week.
  - b) "SNY" court deadlines are dealt by handing court deadline order and then its returned the following week.
  - c) "SNY" III-Yard law library is non-existent. Most all legal books are in boxes. The library consists mainly of "order book forms" you fill out and turn in once a week and receive it at the next weeks yard. This is providing that yard is available.
  - d) Declarant received his court order sometime in the second week of March, and on the 21 of March he handed the librarian the appellate courts deadline. On the 27 of March he handed a Petition for Review to make two copies for the court and one copy for the attorney general.

I declare that I am a resident of San Diego, Ca. I am over the age of 18 years and a party to the within entitled cause. My address is RJ Donovan Corr. Facility, Po Box 799003, San Diego California, 92179.

  
Anthony Arceo J-17830

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true, and correct. Executed on

April 4, 2007, at San Diego, Ca.

  
Anthony Arceo J-17830

in propria persona

IN THE  
**Court of Appeal of the State of California**

IN AND FOR THE  
**Fifth Appellate District**

COURT OF APPEAL  
FIFTH APPELLATE DISTRICT  
**FILED**

**FEB 22 2007**

LEISA V. BIGGERS, CLERK/ADMINISTRATOR  
By \_\_\_\_\_ Deputy

In re


ANTHONY ARCEO,

On Habeas Corpus.

F052216

BY THE COURT\*:

The "Petition For Writ Of Habeas Corpus," filed in this court on February 13, 2007, is denied.

 Acting P.J.

\*Before Harris, Acting P.J., Cornell, J., and Kane, J.

**B**



J2411H1                      SUPERIOR COURT, METROPOLITAN JUSTICE BUILDING                      01/03/07  
KERN CJIS                      IN AND FOR THE COUNTY OF KERN                      14:45  
ORGANIZATION: WM

CASE NO. HC009651 A                      DATE: 01/03/07                      TIME: 08:00 AM                      DEPT.: RL

IN THE MATTER OF ARCEO, ANTHONY

JUDGE:      JOHN I KELLY, JUDGE                      CLERK:      JENIFER GARDNER  
REPORTER:    BAILIFF:  
NATURE OF PROCEEDINGS:  
            HABEAS CORPUS.  
            RULING

---

CDC ID NUMBER: J-17830.

PETITION FOR WRIT OF HABEAS CORPUS IS DENIED.

SEE RULING ATTACHED HERETO AND MADE A PART HEREOF.

COPY OF MINUTE ORDER SENT TO PETITIONER THIS DATE.

ENTERED ON CJIS BY JENIFER GARDNER - SCMET. ON  
01/03/2007.

---

In re Anthony Arceo on Habeas Corpus  
KCSC# HC 9651

ORDER ON PETITION FOR WRIT OF HABEAS CORPUS

The court has read and considered the petition for writ of habeas corpus dated November 15, 2006 and which arrived in an envelope postmarked November 15, 2006. It was filed on December 1, 2006.

Petitioner is serving a sentence of 31 years for kidnapping. His trial occurred in San Joaquin County. He is incarcerated in California State Prison, Los Angeles County at Lancaster.

Petitioner complains of events that began when he was in the California Correctional Institution at Tehachapi.

Petitioner contends that prison authorities caused him to forfeit more credits than they were authorized to do. He explains. In 1997, Petitioner was found guilty of possession of inmate manufactured alcohol. He was assessed a credit forfeiture of 120 days (among other things). He claims the 120 day credit loss was wrongful because, pursuant to Penal Code § 2932 and given the misconduct for which he was found guilty, the maximum credit loss he could have received was only 30 days. Petitioner cites In re Dikes (2004) 121 Cal.App.4th 825 in support of his contention.

Petitioner has not exhausted his administrative remedies. He submitted an appeal, but it was rejected at the second level of review as untimely. Petitioner claims this rejection was wrongful because he submitted his appeal as soon as he discovered his issue.

Petitioner fails to state a prima facie case of relief.

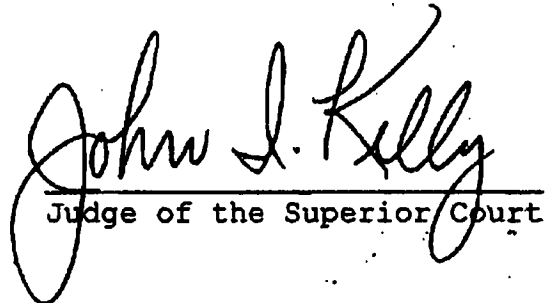
Petitioner failed to exhaust his administrative remedies. His claim that his appeal should not have been rejected as untimely because he submitted it soon after the decision in the Dikes case was issued is without merit. While the decision in Dikes was issued in 2004, shortly before Petitioner submitted his appeal, its discussion of Penal Code § 2932 did not constitute new law. The court in Dikes merely quoted and discussed the relevant portion of § 2932 and explained how it applied. The

relevant portion of § 2932 itself (i.e., § 2932(a)(4)) has been effective and in substantially its present form since January 1, 1987. That is, Petitioner ought to have been able to discover his issue long before the decision in Dikes was ever issued. However, he did not, and he does not explain why he did not. Therefore, the rejection of his appeal as untimely was proper. And, that leads to the conclusion that Petitioner is in violation of the rule that an inmate cannot seek relief in the courts unless he first exhausts his administrative remedies. (In re Dexter (1979) 25 Cal.3d 921, 925; In re Muszalski (1975) 52 Cal. App.3d 500, 503).

Petitioner has failed to state facts sufficient to warrant issuance of a writ of habeas corpus.

The petition is denied.

Dated: 1-3-07

  
\_\_\_\_\_  
Judge of the Superior Court

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

COURT OF APPEAL - SECOND DIST.

**FILED**

NOV 01 2006

JOSEPH A. LANE

Clerk

S. VEVERKA

Deputy Clerk

In re

) B193763

ANTHONY ARCEO,

) (Super.Ct.No.BH004214)

) (David S. Wesley, Judge)

on Habeas Corpus.

) ORDER

THE COURT:\*

The petition for writ of habeas corpus filed September 18, 2006, has been read and considered.

The Los Angeles County Superior Court denied petitioner's habeas corpus petition on the ground the 1997 prison discipline it challenges was imposed in Kern County when petitioner was incarcerated in that county. The present habeas corpus petition does not dispute that ground for denial or provide any exhibits indicating that petitioner was disciplined for conduct occurring while housed within Los Angeles County.

The petition is denied, without prejudice, to re-filing in the appropriate superior court and Court of Appeal. The appropriate superior court to determine the petition is the Kern County Superior Court and the appropriate Court of Appeal is the Court of Appeal for the Fifth Appellate District, located at 2525 Capitol Street, Fresno CA 93721. (*Griggs v. Superior Court* (1976) 16 Cal.3d 341, 347; California Rules of Court, rule 4.552 (b)(2)(B).)

\* EPSTEIN, P.J.,

WILLHITE, J.,

MANELLA, J.

D

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES****DEPT 100**

Date: AUGUST 31, 2006  
 Honorable: DAVID S. WESLEY  
 NONE

Judge J. PULIDO  
 Bailiff NONE

Deputy Clerk  
 Reporter

(Parties and Counsel checked if present)

BH 004214

In re,  
 ANTHONY ARECEO,  
 Petitioner,  
 On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

**Nature of Proceedings: ORDER RE: WRIT OF HABEAS CORPUS**

The Court has read and considered the petition for writ of habeas corpus filed August 18, 2006.

Petitioner seeks relief for a credit loss as a result of a Rules Violation Report (RVR) resolved at California Correctional Institution (CCI) in 1997. This Court is without authority to adjudicate an RVR that occurred in Kern County. This Court's authority is limited to events that occur at Los Angeles County State Prison.

On the merits, the petition is without merit. The manufacture and/or possession of "pruno" is a serious division offense (Cal. Code Regs., tit. 15, § 3323(e)(ii) calling for credit loss of 91-120 days.

The Dikes case is not on point. It involved possession of marijuana, which cannot be prosecuted as a criminal offense (see section 3323(h)(3)) and calls for a credit loss of only 0-30 days.

The petition for relief is denied.

The court order is signed and filed this date.

A true copy of this minute order is sent to the petitioner via U.S. Mail as follows:

Anthony Areceo  
 J-17830  
 California State Prison, Los Angeles County  
 P.O. Box 8457  
 Lancaster, CA 93536

**E**

STATE OF CALIFORNIA —DEPARTMENT OF CORRECTIONS AND REHABILITATION

ARNOLD SCHWARZENEGGER, GOVERNOR

**INMATE APPEALS BRANCH**

1515 S Street, Sacramento, CA 95814  
P.O. Box 942883  
Sacramento, CA 94283-0001



May 10, 2006

Arceo, CDC #J-17830  
California State Prison, Los Angeles County  
44750 - 60th Street West  
Lancaster, CA 93536-7620


Re: Institution Appeal Log #LAC 05-03398 Disciplinary

Dear Mr. Arceo:

The enclosed documents are being returned to you for the following reasons:

This office provides the Director's Level Review of inmate/parolee appeals. The form must be completed through the Second Level of Review on behalf of the Warden or Parole Region Administrator. Your appeal was rejected, withdrawn or cancelled. If you disagree with that decision, contact the Appeals Coordinator. You must comply with instructions from that office.

Your assigned counselor, the Appeals Coordinator, or your Parole Agent can answer any questions you may have regarding the appeals process. Library staff can help you obtain any addresses you need.

  
N. GRANNIS, Chief  
Inmate Appeals Branch

F

CONTINUED 602, PART H.,

to: CHIEF INMATE APPEALS OFFICER

re: in re dikes

CALIFORNIA APPEALS COURTS DECISION

LAC 1 2  
fr: ANTHONY ARCEO, J-17830, FCB1-236

Dear Chief Inmate Appeals Officer,

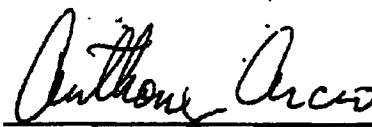
I'm appealing to you hoping that you can rectify this problem. My appeal has been exhausted at the second level. The second level reviewer denied my appeal due to "to great of time lapse between the incident and the appeal".

The recent decision given by the third appellate court informed me only those particular enumerated in Penal Code § 2932 (a)-(b) allocates no more than thirty (30) days of credit loss defined as a serious diciplinary offense. At no time prior to 2005 had I any idea that my credit forfeiture of one hundred & twenty days was not listed or in anyway in error I would have immediately appealed.

Thank you for your time in this matter

dated

3/6/06



ANTHONY ARCEO J-17830

State of California  
CDC FORM 695  
Screening For:  
CDC 602 Inmate/Parolee Appeals  
CDC 1824 Reasonable Modification or Accommodation Request

---

RE: Screening at the SECOND Level

February 21, 2006

ARCEO, J17830

2AC4

Log Number: CCI-0-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

**PLEASE SEE COMMENTS BELOW.**

***The explanation you have provided does not justify the delay. Do not resubmit this appeal. If you do it will not be returned to you, it will be filed in your appeal file.***

  
Appeals Coordinator  
California Correctional Institution

**NOTE:** Failure to follow instruction(s) will be viewed as non-cooperation automatically dismissed pursuant to CCR 3084.4(d). This screen appealed. If you believe this screen out is in error, please return Coordinator with an explanation of why you believe it to be documents. You have only 15 days to comply with the above directions.

G

**PERMANENT APPEAL ATTACHMENT - DO NOT REMOVE**



January 24, 2006

to: Appeals Coordinator

re: Screening compliance, Inmate Arceo  
believes denial would be error

fr: Anthony Arceo, j-17830, FCB1-236

Mr. Appeals Coordinator, I believe a decision of denial due to  
to great of time lapse between the action or decision occurred and when  
I filed my appeal would be error for the following reasons,

The law is clear,

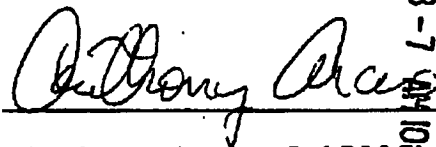
1. The department of corrections is mandated by the Penal Code and the constitution.
2. A defendant cannot be held liable for not raising a issue or law when (1) he is unaware of it. (2) believes the department of corrections is abiding by that very law.
3. Only in criminal cases are laws retroactively applied.
4. The department of corrections and the courts are mandated to apply the law as it exist.
5. At any time should error or tort arise after a decision was reached in error, as a matter of law due process allows a appeal to settle the matter. (exhaustion for instance)
6. Due process allows courts to hear suits, mandamus/prohibition, or appeals of a aggrieved party. Not even in war has barred this inherent right.

I ask you Mr. Sampson to please correct my credit forfeiture that  
justice and law requires.

Thank you for your time in this matter.

Dated

January 24, 2006



Anthony Arceo J-17830

2006 FEB -7 AM 10:36  
CCI-TEHACHA  
APPEALS OFFICE

LAC

State of California  
CDC FORM 695  
Screening For:  
CDC 602 Inmate/Parolee Appeals  
CDC 1824 Reasonable Modification or Accommodation Request

---

RE: Screening at the SECOND Level

December 19, 2005


ARCEO, J17830

Log Number: CCI-0-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

***There has been too great a TIME LAPSE between when the action or decision occurred and when you filed your appeal. Time limits expired per CCR 3084.6(c). Your appeal has been appropriately rejected. DO NOT RESUBMIT.***

  
Appeals Coordinator  
California Correctional Institution

CCI - TEHACHAPI  
APPEALS OFFICE  
2006 FEB - 7 AM 10:36

NOTE: Failure to follow instruction(s) will be viewed as non automatically dismissed pursuant to CCR 3084.4(d). appealed. If you believe this screen out is in error, I Coordinator with an explanation of why you believe documents. You have only 15 days to comply with the

H

e  
e  
s  
B

JAN 06 2006

PERMANENT APPEAL ATTACHMENT

November 10, 2005

35 DEC -1 PM 4:33

to: Appeals Coordinator

re: Explanation and Supporting documents  
as to timeliness of appeal for good  
time credits.

fr: Anthony Arceo, J-17830, FCB1-236

Mr. Appeals Coordinator I'm responding promptly to your concern of tardiness. I became aware of new law in re DIKES, 18 Cal. Rptr. 3d 9, (Cal. App. 1 Dist. 2004) that was provided in the law library. This is a new 2004 series.

This california court ruled Penal Code §§ 2932 enables credit loss for general acts of misconduct of not more than thirty (30) days. However, those enumerated violations within Penal Code § 2932 that can be prosecuted also enable credit forfeiture for ninety or one hundred and eighty days.

Mr. Appeals Coordinator, my wine violations are of the general kind. I also had no idea that "120" days forfeiture was excess.

Finally, I implore you to consider my appeal for credit restoration and any credit adjustments.

DATED:

11/10/05

Sincerely,

*Anthony Arceo*

ANTHONY ARCEO J-17830

2006 FEB -7 AM 10:36  
CCI-TEHACHAPI  
APPEALS OFFICE

NOV 15 2005

State of California  
CDC FORM 695  
Screening For:  
CDC 602 Inmate/Parolee Appeals  
CDC 1824 Reasonable Modification or Accommodation Request

2005 DEC 1 PM 4:33  
CCI - TEHACHA PI

RE: Screening at the SECOND Level

October 31, 2005

ARCEO, J17830

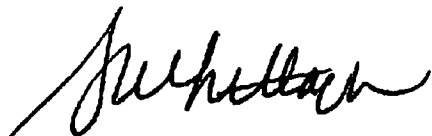
Log Number: CCI-0-

(Note: Log numbers are not assigned to screen out appeals, or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

*There has been too great a TIME LAPSE between when the action or decision occurred and when you filed your appeal with no explanation of why you did not or could not file in a timely fashion. Time limits expired per CCR 3084.6(c). Therefore, if you would like to pursue this matter further, you must submit an explanation and supporting documentation explaining why you did not or could not file your appeal timely.*

RVR is from 1996.



Appeals Coordinator  
California Correctional Institution

CCI - TEHACHA PI  
APPEALS OFFICE  
2006 FEB -7 AM 10:36

**NOTE:** Failure to follow instruction(s) will be viewed as non-cooperation and automatically dismissed pursuant to CCR 3084.4(d). This screening appealed. If you believe this screen out is in error, please return this Coordinator with an explanation of why you believe it to be in error documents. You have only 15 days to comply with the above directive

**PERMANENT APPEAL ATTACHMENT - DO NOT**

I

**INMATE APPEAL ROUTE SLIP**

05 DEC -1 PM 4:32  
CCI - TEHACHAPI  
APPEALS OFFICE

To: CCI

Date: October 20, 2005

From: INMATE APPEALS OFFICE

Re: Appeal Log Number LAC-X-05-03398 By Inmate ARCEO, J17830

Please assign this appeal to appropriate staff for SECOND level response.

Appeal Issue: DISCIPLINARY

Due Date: 11/29/2005

Special Needs: DNM - PERM MOBILITY IMPAIRED

**STAFF INSTRUCTIONS:**

Second level appeals require a personal interview if not afforded at the first level. Begin your response with: GRANTED, DENIED, PARTIALLY GRANTED or WITHDRAWN. When complete, return to Appeals Office. Appeals that are incomplete will be returned to the responding staff for appropriate completion. Refer to D.O.M. 54100 for instructions.

C. A. COLLINS  
INMATE APPEALS OFFICE  
CSP - Los Angeles County

05 OCT 25 PM 2:36  
CCI - TEHACHAPI  
APPEALS OFFICE

2006 FEB -7 AM 10:36  
CCI - TEHACHAPI  
APPEALS OFFICE

APPEAL CDC-602 FOR CREDIT RESTORATION

PART A CONTINUED;

A EXPERT WITNESS FOR THE DEPARTMENT OF CORRECTIONS AWARE OF THIS RULE, MERELY HAS TO STATE FOR A HEARING, "HE'S DRUNK, OR THAT'S ALCOHOL SATISFIES THE FEILD OR LABORATORY TESTING, WITHOUT SAVING ANY EVIDENCE AS THEY DO WITH ALL OTHER SERIOUS VIOLATIONS. THIS SYSTEM IS CAPRICIOUS AND ARBITRARY, IRRESPECTIVE OF RULE, INMATE HAS OR HAS NOT SIGNED A WAIVER PERSUANT TO DIRECTORS RULE § 3290(e). (2) PENAL CODE § 2932 (a)-(b) ALOCATES NO MORE THAN THIRTY DAY (30) DAYS OF CREDIT LOSS DEFINED AS A SERIOUS DICIPLINARY OFFENSE. (3) THE DEPARTMENT OF CORRECTIONS HABIT PRACTICE OR CUSTOM IS, IT HAS NEVER INTENDED TO PROSECUTE ALCOHOL OFFENSES, PER PENAL CODE § 347 (b), A MISDEMEANOR AND NOT ENUMERATED IN PENAL CODE § 2932(a) (SEE ALSO 18 AMENDMENT), (4) I HAVE RECEIVED CDC-115 VIOLATIONS FOR MANUFACTURING ALCOHOL/AKA-STIMULANTS AND SEDATIVES (ALCOHOL). ON 5/29/96, 10/26/97, UNAWARE OF OTHER DATES?

ACTION REQUESTED CONTINUED

§ 2932 (a)-(b). PLEASE RESTORE ALL CREDIT LOSS IN EXCESS OF THIRTY (30) DAYS FOR "ALL" CDC-115 ALCOHOL VIOLATIONS PERSUANT TO DIRECTOR § 3016.

J-1

(2 OF 2)

05 DEC - 1 PM 4:33

05 OCT 25 PM 3:36

CGI - TEHACHAPI  
TEHACHAPI  
APPEALS OFFICE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

RULES VIOLATION REPORT 804 SENT TO RECORDS BY:                     DATED: 11-1-97

CDC NUMBER <b>J-17830</b>	INMATE'S NAME <b>ARCEO</b>	RELEASE/BOARD DATE <b>5-6-2014</b>	INST. <b>OCI-IVB</b>	HOUSING NO. <b>5C-105</b>	LOG NO. <b>IVB-97/10</b>
VIOLATED RULE NO(S). <b>CCR § 3016</b>		SPECIFIC ACTS <b>POSSESSION OF I/M MANUFACTURE ALCOHOL</b>		DATE <b>10/26/97</b>	TIME <b>0945 HRS.</b>

CIRCUMSTANCES On Sunday, October 26, 1997, at approximately 0945 hours, while working position #5223R, Housing Unit #5, Floor Officer, I was conducting cell searches in "C" section. While searching 5C-105, I found a laundry bag hanging from the shelves that contained approximately two (2) Gallons of a orange pulp substance suspected to be "Pruno" Inmate made Manufactured Alcohol in a plastic bag, and thirteen (13) apples. At this time cell 5C-105, is jointly occupied by Inmates ARCEO, J-17830, and inmate BARA, J-97157. Inmate ARCEO claims full responsibility of the "Pruno". The contents of the bag were verified as pruno by Correctional Sergeant J. Finch. The pruno was disposed of per Institutional policy. Inmate ARCEO speaks and understand English and is aware of this report.

REPORTING EMPLOYEE (Typed Name and Signature) <b>R. DURAN, Correctional Officer</b>	DATE <b>11-1-97</b>	ASSIGNMENT <b>H.U. #5 FLOOR OFF</b>	RDO'S <b>Mon/Tue</b>
REVIEWING SUPERVISOR'S SIGNATURE <b>J. FINCH, Unit Sergeant</b>	DATE <b>11-1-97</b>	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: <b>111</b>	DATE <b>11/1/97</b>	LOC. <b>11-1-97</b>
CLASSIFIED BY (Typed Name and Signature) <b>R. GROUNDS, CORRECTIONAL COUNSELOR II</b>		HEARING REFERRED TO <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> SC <input type="checkbox"/> FC	
COPIES GIVEN INMATE BEFORE HEARING			
<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) <b>[Signature]</b>	DATE <b>11/3/97</b>	TIME <b>1500</b>
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME

HEARING On 12/02/97, Inmate ARCEO, J-17830, 1C-205-U, appeared before me and stated he was in good health and was prepared to proceed with the hearing. He was given a copy of the charges and all pertinent reports more than twenty-four (24) hours prior to the hearing. He was advised that the results of this hearing are not final until reviewed and approved by the Chief Disciplinary Officer, and that after that review he will receive his final copy of the completed CDC-115. He was apprised of his right to appeal this action. He was advised of the Credit Restoration procedures pursuant to CCR Title 15, §3327 and 3328.

Inmate ARCEO, D-99750, DID NOT request the presence of witnesses when asked during the hearing conducted on December 02, 1997.

No Investigative was assigned pursuant to California Code of Regulations Title 15, §3315(d)(1).

I read the charges as written to Inmate ARCEO, J-17830 and he admits the charges contained in the Rules Violation Report. ARCEO had no statement to make in defense to the charges. ARCEO did admit that he was solely responsible for the charges that he alone was guilty.

REFERRED TO ☐ CLASSIFICAT

ACTION BY: (TYPED NAME)

C.C. OVERALL, Senda

REVIEWED BY: (SIGNATURE)

**[Signature]**☒ COPY OF CDC 115 GIVEN INM

CDC 115 (7/88)

SIGNATURE <b>[Signature]</b>	DATE <b>12/02/97</b>	TIME <b>0800</b>
CHIEF DISCIPLINARY OFFICER'S SIGNATURE <b>[Signature]</b>	DATE <b>4/26/97</b>	TIME <b>0800</b>
ATURE) <b>[Signature]</b>	DATE <b>12/1/97</b>	TIME <b>0800</b>

**J-2**

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

PAGE \_\_\_\_ OF \_\_\_\_

CDC NUMBER	INMATE'S NAME	LOG NUMBER	INSTITUTION	TODAY'S DATE
J-17830	ARCEO	IVB-97/10-81	CCI-IVB	12/02/97
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

ARCEO had no further statements or comments to make in regards to the Rules Violation Report.

INMATE ARCEO, J-17830, is being found GUILTY of possession of Inmate Manufactured Alcohol, which is a violation of the California Code of Regulations section §3016, based on the preponderance of evidence submitted at the disciplinary hearing. The evidence submitted included:

- 1). The written report of Correctional Officer R. Duran describes the Officer searching cell 5C-105, finding, and confiscating a laundry bag with approximately two (2) gallons of an orange pulpy substance that was inmate alcohol. ARCEO's possession of inmate made alcohol is a violation of the California Code of Regulations section §3016.
- 2). The finding is substantiated by the verification of the confiscated liquid being "pruno" by Correctional Sergeant J. Finch, an experienced Sergeant, as stated in the Rules Violation Report.
- 3). The finding is further substantiated by the admission of Guilty to the charges made by ARCEO, J-17830 during the disciplinary hearing conducted on December 02, 1997. ARCEO offered no defense to the charges or any compelling justification for violation of the code of Regulations.

FINDING: Inmate ARCEO, J-17830 is being found GUILTY AS CHARGED based on ARCEO's own admission and information contained in the Rules Violation Report.

DISPOSITION: ASSESSED 120 DAYS FORFEITURE OF CREDITS FOR DIVISION C-11 OFFENSE. ASSESSED 90 DAYS LOSS OF PRIVILEGES INITIATING OCTOBER 26, 1997, AND TERMINATING ON JANUARY 25, 1998.

PRIVILEGES RESTRICTIONS: NO MAIN YARD ON WEEKENDS, NO QUARTERLY PACKAGES.

J-3

SIGNATURE OF WRITER		DATE SIGNED	
C.C. OVERALL Senior Hearing Officer		12-4-97	
GIVEN BY: (Staff's Signature)		DATE SIGNED	TIME SIGNED
<i>B. Duran</i>		12-31-97	0800-

☒ COPY OF CDC 115-C GIVEN TO INMATE



STATE OF CALIFORNIA

## RULES VIOLATION REPORT

DEPARTMENT OF CORRECTIONS

CDC NUMBER <b>J-17830</b>	INMATE'S NAME <b>ARCEO</b>	(M)	RELEASE/BOARD DATE	INST. <b>OCI-IV-A</b>	HOUSING NO. <b>1A-202</b>	LOG NO. <b>A0596-060</b>
VIOLATED RULE NO(S). <b>D.R. §3016</b>		SPECIFIC ACTS <b>POSSESSION OF ALCOHOL</b>		LOCATION - <b>1A-202</b>	DATE <b>5-29-96</b>	TIME <b>1915 HRS.</b>

## CIRCUMSTANCES

On Wednesday, May 29, 1996, at approximately 1915 hours, while working Position #434363, I was in the Housing Unit #1 Floor Office. Correctional Officer Gomez was passing out legal mail as Inmate ARCEO, J-17830, 1A-202L, entered the Office to sign for his legal mail. I smelled a strong, pungent alcohol odor. C/O Seward then detained ARCEO. I went to his cell and escorted his cell-mate, Inmate THOMPSON, C-45166, 1A-202U, from the cell. THOMPSON had the same type alcohol odor. Both Inmate(s) THOMPSON and ARCEO were placed in the "A" Section dayroom by C/O Seward. I then searched their cells and found two (2) plastic pitchers containing what I suspected to be manufactured alcohol. Both inmates were then placed in handcuffs and escorted by S&B's to a Clinic Holding cell. I then notified the IV-A Unit Sergeant, T. Greenwaldt, who confirmed the contents to be alcohol. A further search was conducted and a plastic garbage bag containing approximately ten (10) pounds of a red pulp substance that had the same alcohol odor was found.

Inmate ARCEO is aware of this report.

REPORTING EMPLOYEE (Typed Name and Signature) <b>M. Taylor, Correctional Officer</b>		DATE <b>5-29-96</b>	ASSIGNMENT <b>Floor 1 Officer</b>
REVIEWING SUPERVISOR'S SIGNATURE <b>T. Greenwaldt, Correctional Sgt.</b>		DATE <b>5-29-96</b>	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: <b>C</b>	DATE <b>5-29-96</b>	CLASSIFIED BY (Typed Name and Signature) <b>K. Stages, Correctional Counselor II</b>
HEARING REFERRED TO <input type="checkbox"/> NO <input type="checkbox"/> SHD <input type="checkbox"/> SC <input type="checkbox"/> FC		COPIES GIVEN INMATE BEFORE HEARING	
<input type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE)	DATE	TIME
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER	BY: (STAFF'S SIGNATURE)	DATE	TIME

## HEARING

On June 19, 1996, at 1915 hours, Inmate Arceo, J-17830, appeared before me, stating that he was in good health and was not prepared to proceed with the hearing. However Inmate Arceo requested additional investigation to be done. I GRANTED his request and postponed the hearing. (The continuation of the investigation was completed and copy issued on 7-01-96. Arceo went Out To Court (OTC) on 7-8-96 and returned on 7-16-96. Arceo was ready to proceed with the hearing). He did receive a copy of the charges and all pertinent reports more than twenty-four (24) hours prior to the hearing. He is informed that the disposition in this matter would not become final pending review and approval by the Chief Disciplinary Hearing Officer. Upon this approval, a completed copy of the CDC-115 will be issued. Arceo did not request any witnesses to be present at the hearing, he did not request the reporting Employee to be present at the hearing, he did request the assignment of an Investigative Employee, which was GRANTED. I read the charges to Inmate Arceo and he ADMITS being guilty of the charges, stating: "He has no explanation or excuse." (Arceo Waived all witnesses at the time of the hearing).

**FINDINGS:** Inmate Arceo is found GUILTY of violating Director's Rule §3016, specifically, of POSSESSION OF ALCOHOL. All evidence in this matter was considered and the facts support the finding based upon information contained in the Investigative Reports and Supplemental Reports and the Reporting Employee, and Inmate Arceo pled guilty of the charges.

**DISPOSITION:** Inmate Arceo is assessed one hundred twenty (120) days Credit Forfeiture consistent with a Division "C" Offense, ten (10) days Disciplinary Detention Unit (DDU) effective 7-17-96 through 7-26-96. Counselor concerning future behavioral expectations. Subject is informed of his appeal right and process for Credit Restoration pursuant to Title 15, CCR §3027.

REFERRED TO: ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME)

**R. Bird, Senior**  
REVIEWED BY: (SIGNATURE)

**Q.T.**

☒ COPY OF CDC 115 GIVEN TO

CDC 115 (7/88)

SIGNATURE <b>[Signature]</b>	DATE <b>7-16-96</b>	TIME <b>1730</b>
CHIEF DISCIPLINARY OFFICER'S SIGNATURE <b>[Signature]</b>	DATE	TIME
INMATE'S SIGNATURE <b>[Signature]</b>	DATE <b>7/16/96</b>	TIME <b>0945</b>

**J-4**

**INMATE/PAROLEE  
APPEAL FORM**  
(2/87)

Location: Institution/Parole Region

Log No.

Category

1. INMATE X  
2. 001.05

1. 05-03398 # 11/214.C  
2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME <b>ANTHONY ARCEO</b>	NUMBER <b>J-17830</b>	ASSIGNMENT <b>G.E.D.</b>	UNIT/ROOM NUMBER <b>FCB 1-236</b>
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A. Describe Problem: THE UNITED STATES SUPREME COURT STATED IN SUPERINTENDANT V HILL (1985) 472 US 445, 447, 105 SCT 2768, 86 LED2D 356, ALL EVIDENCE IS SUBJECT TO THE SOME EVIDENCE RULE, HOWEVER ON REVIEW THIS EVIDENCE IS NOT SUBJECT TO THE EXAMINATION OF THE ENTIRE RECORD, INDEPENDANT ASSESSMENT OF THE CREDIBILITY OF WITNESSES OR WEIGHING OF SAID EVIDENCE. (1) THE DEPARTMENT OF CORRECTIONS WITNESSES ARE TRAINED AS EXPERTS, a) THEY HANDLE AND CONTROL ALL EVIDENCE THEY ALSO HANDLE AND CONTROL ALL ADJUDICATIONS BROUGHT BY THESE SAME EXPERTS. THE FINDINGS BASED UPON THE DEPARTMENT OF CORRECTIONS "AGENCIES" GOOD NAME.

If you need more space, attach one additional sheet.

B. Action Requested: THE DISCIPLINE "CREDIT LOSS" IMPOSED FOR A VIOLATION OF DIRECTOR'S RULE § 3016 POSSESSION OF INMATE MANUFACTURED ALCOHOL HAS NOR WAS INTENDED FOR PROSECUTION UNDER PENAL CODE §§ 347(b) OR ELSEWHERE. THEREFORE THE AGENCY CAN NOT IMPOSE A CREDIT FORFEITURE OF MORE THAN THIRTY (30) DAYS PER PENAL CODE

Inmate/Parolee Signature: Anthony Arceo Date Submitted: 9/27/05

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: 05 OCT 26 PM 2:36

D. FORMAL LEVEL  
If you are dissatisfied, submit to the Institution

Completed CDC 115, Inmate's Report, Classification chronology (CDC 128, etc.) and filing within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: 2006 FEB -7 AM 10:39

Note: Property/Funds appeals must be accompanied by a completed Board of Control form 8C-1E, Inmate Claim

CDC Appeal Number:

SEP 29 2005 OCT 13 2005 JAN 26 2006

(1 OF 2)

5/0 10/3/05

First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other \_\_\_\_\_

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

Interviewed by: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Division Head Approved: \_\_\_\_\_ Returned \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

BYPASS

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other \_\_\_\_\_G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 10-13-05 Due Date: 11-29-05☐ See Attached Letter

Signature: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Warden/Superintendent Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add date or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Dear inmate appeals officer, I'm hoping that you can rectify this problem. My appeal has been exhausted at the second level. The second level reviewer denied my appeal due to "too great of time lapse between the incident and appeal".

see attached part H  
3/6/06

Signature: Anthony Ores Date Submitted: 3/6/06

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other \_\_\_\_\_

Attached Letter

JOC 11/12/07

Date: \_\_\_\_\_

# K

1 Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed with this case, he must submit,  
2 **no later than September 24, 2007**, a copy of this Order with the \$5.00 fee or with adequate  
3 proof of his inability to pay the fee. A copy of the proper Southern District of California in  
4 forma pauperis form will be sent to Petitioner along with this Order.

5 In addition, the Petition is subject to dismissal because Petitioner has not alleged  
6 exhaustion of his state court remedies. Habeas petitioners who wish to challenge either their  
7 state court conviction or the length of their confinement in state prison, must first exhaust state  
8 judicial remedies. 28 U.S.C. § 2254(b), (c); Granberry v. Greer, 481 U.S. 129, 133-34 (1987).  
9 To exhaust state judicial remedies, a California state prisoner must present the California  
10 Supreme Court with a fair opportunity to rule on the merits of every issue raised in his or her  
11 federal habeas petition. 28 U.S.C. § 2254(b), (c); Granberry, 481 U.S. at 133-34. Moreover, to  
12 properly exhaust state court remedies a petitioner must allege, in state court, how one or more  
13 of his or her federal rights have been violated. The Supreme Court in Duncan v. Henry, 513  
14 U.S. 364 (1995) reasoned: "If state courts are to be given the opportunity to correct alleged  
15 violations of prisoners' federal rights, they must surely be alerted to the fact that the prisoners  
16 are asserting claims under the United States Constitution." Id. at 365-66 (emphasis added).

17       Petitioner attaches a number of state court filings which he appears to contend satisfy the  
18 exhaustion requirement. However, these filings all relate to a claim arising from a 1997  
19 disciplinary infraction where Petitioner was found guilty of possession of inmate-manufactured  
20 alcohol while housed at the California Correctional Institution at Tehachapi, California, and in  
21 which Petitioner alleges that the resultant loss of 120 days of custody credits exceeded what  
22 Petitioner contends is permitted under California law. (See Attachment to Pet., Exs. C-J.)  
23 Petitioner presented this claim to the state courts by filing habeas petitions in the Los Angeles  
24 County Superior and Appellate Courts in 2006. (Id., Exs. D-F.) Those petitions were denied  
25 on the basis that jurisdiction for the claim was only proper in Kern County, where the California  
26 Correctional Institution at Tehachapi is located, and where Petitioner was housed at the time of  
27 the infraction. (Id.) Petitioner then filed habeas petitions in the Kern County Superior and  
28 Appellate Courts in 2007, which were denied on the basis that Petitioner had not exhausted his



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**IT IS SO ORDERED.**

*William Q. Hayes*  
**WILLIAM Q. HAYES**  
 United States District Judge

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Victoria C. Minor  
Clerk of Court

Office of the Clerk  
501 "I" Street  
Sacramento, CA 95814

Divisional Office  
2500 Tulare Street  
Fresno, CA 93721

September 17, 2007

Case Number: 2:07-CV-01917-FCD-GGH

Case Title: ANTHONY A ARCEO, vs. ROBERT AYERS,

Dear Litigant,

You are hereby notified that the above case number has been assigned to your action. You are to include the complete case number on all documents sent to the court for filing in this case. Failure to do so results in delayed processing of your documents.

All matters in this action shall be sent to the following address until further notice:

Office of the Clerk  
United States District Court  
Eastern District of California  
501 "I" Street, Suite 4-200  
Sacramento, CA 95814

For timely processing of your pleadings or correspondence, please comply with our Local Rules of Court, in particular:

**Local Rule 5-133** The court requires an original plus one copy of each document sent for filing. If you desire to receive a conformed copy for your records, you must send an original and two copies of your document and a pre-addressed postage-paid envelope for us to return your copy to you.

**Local Rule 5-135** Once the defendant(s) have served a responsive pleading, you are under an ongoing duty to serve them with copies of all documents you submit to the court. A proof of service shall be attached to the original of any document lodged or filed with the court, showing the date, manner and place of service. A sample proof of service is attached.

**Local Rule 7-130** Documents submitted to the court must be legible, on 8-1/2 " x 11" paper, with writing on one (1) side of the page only. Each separate document must be stapled at the top left corner and pre-punched with two (2) holes centered 2-3/4" apart, 1/2" from the top edge of the page. Each page should be numbered consecutively at the bottom.

**Local Rule 7-132** Every document submitted to the court must include your name, address and prisoner identification number in the upper left hand corner of the first page. The caption on the first page must include the title of this court, the title of the action, the case number assigned to this action (including all initials and letters that follow the number), and the title of your document. If you are pursuing more than one action in this court, you must submit a separate original document and the appropriate number of copies for each action in which you want the document filed.



**Local Rule 6-142** A request for extension of time must state the reason an extension is needed. A request for extension of time should be filed before the deadline in question.

**Local Rules 30-250, 33-250, 34-250 and 36-250** Discovery requests or responses should not be submitted to the court unless they are relevant and necessary to support or oppose a motion at issue before the court.

**Local Rule 83-182** Each party appearing in propria persona is under a continuing duty to notify the Clerk and all other parties of any change of address.

**Other Provisions:**

**Request for Case Status** The court will notify you as soon as any action is taken in your case. Due to the large number of civil actions pending before the court, THE CLERK IS UNABLE TO RESPOND IN WRITING TO INDIVIDUAL INQUIRES REGARDING THE STATUS OF YOUR CASE. As long as you keep the court apprised of your current address, you will receive all court decisions which might affect the status of your case.

**Copy Work** The Clerk's Office does not provide copies of documents to parties. Copies of documents may be obtained from Attorney's Diversified Service (ADS) by writing to them at: 1424 21st Street, Sacramento, CA 95814, or by phoning 916-441-4396 or 916-441-4466. The court will provide copies of docket sheets at \$0.50 per page. **Note: In Forma Pauperis** status does not include the cost of copies.

Victoria C. Minor  
Clerk of Court  
United States District Court

by: /s/ A. Benson  
Deputy Clerk

The following is a sample Proof of Service. Pursuant to Rule 5 of the F.R.Cv.P. and Local Rule 5-135, each document filed after the court orders service in your case shall be served on opposing counsel and a proof of service attached to your document filed with the court.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

(Case Title)

Plaintiff or Petitioner

V.

Case Number: 2:99-CV-99999 ABC DFG  
(example case no.)

Defendant or Respondent

**SAMPLE PROOF OF SERVICE**

I hereby certify that on (Date), I served a copy

of the attached (Title of Document Served and Filed)

by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said

envelope in the United States Mail at (Location of Mailing):

**(List Name and Address of Each Defendant or Attorney Served)**

I declare under penalty of perjury that the foregoing is true and correct.

(Name of Person Completing Service)

**NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE**

**TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS**

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 73-305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case dispositive jurisdiction and to conduct any or all case despositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent to pursuant to 28 U.S.C. § 636(c) the assigned Magistrate Judge will hear all motions except those case dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at [www.caed.uscourts.gov](http://www.caed.uscourts.gov) for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk  
501 I Street, Room 4-200  
Sacramento, CA 95814

Office of the Clerk  
2500 Tulare Street , Suite 1501  
Fresno, CA 93721

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**ANTHONY A ARCEO,** \_\_\_\_\_  
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. **2:07-CV-01917-FCD-GGH** \_\_\_\_\_

**ROBERT AYERS,** \_\_\_\_\_  
Defendant(s)/Respondents(s).

**IMPORTANT**  
**IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF**  
**A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE**  
**SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.**



**CONSENT TO JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

( ) Plaintiff/Petitioner ( ) Defendant/Respondent

( ) Counsel for \* \_\_\_\_\_



**DECLINE OF JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

( ) Plaintiff/Petitioner ( ) Defendant/Respondent

( ) Counsel for \* \_\_\_\_\_

*\*If representing more than one party, counsel must indicate name of each party responding.*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**FILED**

SEP 26 2007

ANTHONY A ARCEO,

Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 2:07-CV-01917-ECD-GGH

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
DEPUTY CLERK

ROBERT AYERS,

Defendant(s)/Respondents(s).



**CONSENT TO JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: Sept 21, 2007

Signature: Anthony Arceo

Print Name: ANTHONY ARCEO

☒ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Counsel for \*



**DECLINE OF JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

☐ Counsel for \*

*\*If representing more than one party, counsel must indicate name of each party responding.*

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 ANTHONY A. ARCEO,

11 Petitioner,

No. CIV S-07-1917 FCD GGH P

12 vs.

13 ROBERT AYERS, et al.,

14 Respondents.

ORDER

15 \_\_\_\_\_ /  
16 Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of  
17 habeas corpus pursuant to 28 U.S.C. § 2254. In his application, petitioner challenges a  
18 disciplinary conviction he received while incarcerated at the California Correctional Institution  
19 (CCI) in Tehachapi. CCI is located in Kern County. Kern County is part of the Fresno Division  
20 of the United States District Court for the Eastern District of California. See Local Rule 3-  
21 120(d).

22 Pursuant to Local Rule 3-120(f), a civil action which has not been commenced in  
23 the proper division of a court may, on the court's own motion, be transferred to the proper  
24 division of the court. Therefore, this action will be transferred to the Fresno Division of the  
25 court. This court will not rule on petitioner's request to proceed in forma pauperis.

26 /////

1 Good cause appearing, IT IS HEREBY ORDERED that:

2 1. This action is transferred to the United States District Court for the Eastern  
3 District of California sitting in Fresno; and

4 2. All future filings shall reference the new Fresno case number assigned and  
5 shall be filed at:

6 United States District Court  
7 Eastern District of California  
8 2500 Tulare Street  
9 Fresno, CA 93721

10 DATED: 10/23/07

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Sacramento Clerk's Office  
501 "I" Street, Suite 4-200  
Sacramento, CA 95814  
916-930-4000

Fresno Clerk's Office  
2500 Tulare Street, Suite 1501  
Fresno, CA 93721  
559-499-5600

October 23, 2007

Case Number: 1:07-CV-01548-OWW-GSA

---

Case Title: ANTHONY A ARCEO, vs. ROBERT AYERS,

---

Dear Litigant,

You are hereby notified that the above case number has been assigned to your action. You are to include it on all correspondence (e.g., letters, filings, and inquiries) sent to the court. Failure to do so results in delayed processing of your documents.

All matters in this action shall be sent to the following address until further notice:

Office of the Clerk  
United States District Court  
Eastern District of California  
2500 Tulare Street, Suite 1501  
Fresno, CA 93721

For timely processing of your filings or correspondence, please comply with our Local Rules of Court, in particular:

**Local Rule 5-133 (modified)** You are not required to send this court an original plus one copy of all documents submitted for filing (e.g., pleadings, motions, correspondence, etc.). You are only required to send this court the original for filing. No extra copies are required. However, if you desire to receive a conformed copy for your records, you must send the original plus one (1) copy and a pre-addressed postage-paid envelope for us to return your copy to you.

**Local Rules 30-250, 33-250, 34-250 and 36-250** Discovery requests or responses should not be submitted to the court unless they are relevant and necessary to support or oppose a motion at issue before the court.

**Local Rule 5-135** Once the defendant(s) have served a responsive pleading, you are under an ongoing duty to serve them with copies of all documents you submitted to the court. A proof of service shall be attached to the original of any document lodged or filed with the court, showing the date, manner and place of service. A sample proof of service is attached.



**Local Rule 7-130 (modified)** Documents submitted to this court may be either typewritten or handwritten but must be legible, and writing shall be on one (1) side of the page only.

**Local Rule 7-132** Every document submitted to the court must include your name, address and prisoner identification number in the upper left hand corner of the first page.

**Local Rules 83-182** Each party appearing in propria persona is under a continuing duty to notify the Clerk and all other parties of any change of address by filing separate notice; absent such notice, service at prior address shall be fully effective. A sample Notice of Change of Address form is attached.

**Other Provisions:**

A complete copy of the Local Rules should be available in the prison library. We do not provide individual copies to litigants.

**Request for Case Status** The court will notify you as soon as any action is taken in your case. Due to the large number of civil actions pending before the court, **THE CLERK IS UNABLE TO RESPOND IN WRITING TO INDIVIDUAL INQUIRES REGARDING THE STATUS OF YOUR CASE.** As long as you keep the court apprised of your current address, you will receive all court decisions which might affect the status of your case.

**Copy Work** The Clerk's Office does not provide copies of documents to parties. Copies of documents may be obtained from the Attorney's Diversified Service (ADS) by writing to them at: 741 N. Fulton Street, Fresno CA 93728, or by phoning 800-842-2695. The court will provide copies of docket sheets at \$0.50 per page. Note: In Forma Pauperis status does not include the cost of copies.

**Proposed Orders** Parties are not required to submit a proposed order when filing a motion. If a proposed order is submitted, the court may disregard the order and prepare its own order.

As noted, the requirements set forth in Local Rule 5-135 and 7-130 have been modified in this letter. These modifications apply to civil rights and habeas cases filed in the Fresno Division of the Eastern District of California by prisoners proceeding pro se (without counsel).

Victoria C. Minor  
Clerk of Court  
United States District Court

by: /s/ H. Kaminski

Deputy Clerk

~~Case 1:07-cv-01548-OWW-GSA Document 6 Filed 10/23/2007 Page 3 of 4~~

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

\_\_\_\_\_  
v.

Case Number: \_\_\_\_\_

\_\_\_\_\_  
**PROOF OF SERVICE**

\_\_\_\_\_  
I hereby certify that on \_\_\_\_\_, I served a copy  
of the attached \_\_\_\_\_,

by placing a copy in a postage paid envelope addressed to the person(s) hereinafter  
listed, by depositing said envelope in the United States Mail at

\_\_\_\_\_  
(List Name and Address of Each  
Defendant or Attorney Served)

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
(Signature of Person Completing Service)

Name: \_\_\_\_\_

I.D. #: \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

\_\_\_\_\_  
(Plaintiff/Petitioner)

v.

Case Number: \_\_\_\_\_

\_\_\_\_\_  
(Defendant(s)/Respondent)

**NOTICE OF CHANGE  
OF ADDRESS**

\_\_\_\_\_/

**PLEASE TAKE NOTICE THAT (print name)** \_\_\_\_\_

hereby submits a notice of change of address in the above – entitled case as follows:

**OLD ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**NEW ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff/Petitioner

**YOU MUST FILE AN ORIGINAL CHANGE OF ADDRESS  
FORM IN EACH OF YOUR OPEN CASES**

**TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS**

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 73–305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case dispositive jurisdiction and to conduct any or all case despositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or nonjury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent to pursuant to 28 U.S.C. § 636(c) the assigned Magistrate Judge will hear all motions except those case dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at [www.caed.uscourts.gov](http://www.caed.uscourts.gov) for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk  
501 I Street, Room 4–200  
Sacramento, CA 95814

Office of the Clerk  
2500 Tulare Street , Suite 1501  
Fresno, CA 93721

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**ANTHONY A ARCEO,** \_\_\_\_\_

Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 1:07-CV-01548-OWW-GSA

**ROBERT AYERS,** \_\_\_\_\_

Defendant(s)/Respondents(s).

**IMPORTANT**  
**IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF**  
**A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE**  
**SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.**



**CONSENT TO JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C. Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

( ) Plaintiff/Petitioner ( ) Defendant/Respondent

( ) Counsel for \* \_\_\_\_\_



**DECLINE OF JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

( ) Plaintiff/Petitioner ( ) Defendant/Respondent

( ) Counsel for \* \_\_\_\_\_

*\*If representing more than one party, counsel must indicate name of each party responding.*

**UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

**OFFICE OF THE CLERK  
2500 Tulare Street  
Fresno, CA 93721**

Clerk, Southern District of California  
880 Front Street  
San Diego, CA 92101

**RE: ANTHONY A ARCEO vs. ROBERT AYERS**  
**USDC No.: 1:07-CV-01548-OWW-GSA**

Dear Clerk,

Pursuant to the order transferring the above captioned case to your court, dated November 02, 2007, transmitted herewith are the following documents.

**Electronic Documents: 1 to 7.**

Documents maintained electronically by the district court are accessible through PACER for the Eastern District of California at <https://ecf.caed.uscourts.gov>.

Please acknowledge receipt on the extra copy of this letter and return to the Clerk's Office.

Very truly yours,

**November 2, 2007**

/s/ **E. Flores**

Deputy Clerk

RECEIVED BY:

\_\_\_\_\_  
Please Print Name

DATE RECEIVED:

NEW CASE  
NUMBER:

\_\_\_\_\_

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**FILED**

NOV 05 2007

ANTHONY A ARCEO.

Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 1:07-CV-01548-OWW-GSA

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY DEPUTY CLERK

ROBERT AYERS.

Defendant(s)/Respondents(s).

**IMPORTANT**

IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.



**CONSENT TO JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: 10/29/07

Signature: Anthony Arceo

Print Name: ANTHONY ARCEO

( ) Plaintiff/Petitioner ( ) Defendant/Respondent

( ) Counsel for \* PRO SE LITIGANT



**DECLINE OF JURISDICTION OF  
UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

( ) Plaintiff/Petitioner ( ) Defendant/Respondent

( ) Counsel for \* \_\_\_\_\_

\*If representing more than one party, counsel must indicate name of each party responding.

1 Name: ARLEO Anthony  
2 CDC No: J17830 Cell No. 15-134  
3 Address: RT DONOVAN CORR. FACILITY  
4 PO BOX 799003 F3B15-134  
5 SAN DIEGO CA 92179

**FILED**

NOV 05 2007

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY DEPUTY CLERK

6 Plaintiff In Pro Se

7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10 (Name of Court)

1:07-cv-1548 OWW GSA

11 In the matter of:  
12 Anthony ARLEO  
13 Petitioner/Plaintiff  
14 vs.  
15 ROBERT AYERS  
16 Respondent/Defendant

CASE No.: \_\_\_\_\_

NOTICE OF CHANGE  
OF ADDRESS

17 TO: The Honorable Judge of the above entitled Court.

18 NOTICE is hereby given, the above named petitioner/plaintiff,  
19 Anthony ARLEO, has changed address from that currently on

20 record to the following:

Name: Anthony ARLEO  
21 CDC No.: J17830 Cell No. F3B15-134  
22 Address: RT DONOVAN CORR. FACILITY  
23 PO BOX 799003 F3B15-134  
24 SAN DIEGO CA 92179

25 Dated: 10/29/07

Respectfully submitted,

26 Anthony ARLEO  
(Signature)  
27 Anthony ARLEO  
28 (Print Name)



# STATE OF CALIFORNIA COUNTY OF SAN DIEGO

(C.C.P. SEC. 446 & 2015.5; 28 U.S.C. SEC. 1746)

I, Anthony ARCO DECLARE UNDER THE PENALTY OF PERJURY THAT: I AM THE Declarant/Prisoner IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 29 DAY OF OCT AT R.J.D. STATE PRISON, 480 Alta Road, San Diego, CA 92179

(SIGNATURE)

Anthony Arco  
(DECLARANT/PRISONER)

## PROOF OF SERVICE BY MAIL

(C.C.P. SEC. 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I, Anthony ARCO, AM A RESIDENT OF R.J.D. STATE PRISON, IN THE COUNTY OF S.D. STATE OF CALIFORNIA; I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM AM NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: R.J. Donovan  
Corr Facility P.O. Box 799003 San Diego CA 92179

ON 10/29/07, I SERVED THE FOREGOING:

- 1) change of address new filing
- 2) Consent to proceed with Manifesto Judge

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY(S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT Richard J. Donovan Correctional Facility

EX PARTE USOC EASTERN  
2500 TULARE ST STE 1501  
FRESNO CA. 1501

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: 10/29/07

Anthony Arco  
(DECLARANT/PRISONER)

JS44

(Rev. 07/89)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of automating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

## I (a) PLAINTIFFS

Anthony A. Arceo

Ayers, et al

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

2254	DEFENDANTS
FILING FEE PAID	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/>
IFP MOTION FILED	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
COURT	Pro Se

FILED
NOV - 5 2007
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Anthony A. Arceo  
PO Box 799003  
San Diego, CA 92179  
J-17830

07 CV 2131 W

BLM

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | (For Diversity Cases Only)              |   | PT  | DEF   | PT | DEF |
|---|---|---|---|----|-----|
| Citizen of This State                   | <input type="checkbox"/> 1 <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |    |     |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |    |     |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |    |     |

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395R)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<b>LABOR</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act 20 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(e))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 790 Other Labor Litigation	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input checked="" type="checkbox"/> 530 General	<input type="checkbox"/> 791 Empl. Ret. Inc.	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> Security Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property					

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☒ 5 Transferred from another district (specify) EASTERN ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 11/5/2007

SIGNATURE OF ATTORNEY OF RECORD

R. M. Ullrich